

161 FERC ¶ 61,161
FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, DC 20426

November 16, 2017

In Reply Refer To:
New York Independent System
Operator, Inc.
Docket Nos. ER15-572-000
ER15-572-002
ER15-572-006

Winston & Strawn LLP
1700 K Street, NW
Washington, DC 20006

Attention: Elias G. Farrah, Esq.
Attorney for New York Transco, LLC

Dear Mr. Farrah:

1. On August 21, 2017, in the above-referenced proceedings, you filed an Offer of Settlement (Settlement) between New York Transco, LLC (NY Transco) and the other signatories to the Settlement.¹ On September 11, 2017, the New York Commission filed comments supporting the settlement and noted that it encourages other developers to use a cost containment mechanism similar to that proposed in the Settlement.² In addition, on

¹The signatories to the Settlement are Central Hudson Gas and Electric Corporation; Consolidated Edison Company of New York, Inc.; Niagara Mohawk Power Corporation d/b/a National Grid; NY Transco; New York State Electric and Gas Corporation; Orange and Rockland Utilities, Inc.; Rochester Gas and Electric Corporation; New York Power Authority; Power Supply Long Island; New York Public Service Commission (New York Commission); City of New York; Municipal Electric Utilities Association of New York; and Multiple Intervenors, an unincorporated association of approximately 60 industrial, commercial, and institutional energy consumers with manufacturing and other facilities located throughout New York State.

² New York Commission Comments at 3.

that date, Commission Trial Staff filed comments supporting the Settlement.³ No other comments were filed. On September 14, 2017, the Settlement Judge certified the Settlement to the Commission as an uncontested settlement.⁴

2. The Settlement addresses the financial terms that are components of NY Transco's revenue requirement for the proposed Alternating Current (AC) Transmission Projects,⁵ Segment B Additions,⁶ Future AC Investments,⁷ and Future Projects.⁸

3. The Settlement provides that

[t]he standard of review for any change to this Settlement proposed by a Settling Party shall be the "public interest" application of the just and reasonable standard set forth in *United Gas Pipe Line Co. v. Mobile Gas Serv. Corp.*, 350 U.S. 332 (1956), and *Fed. Power Comm'n v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), as clarified in *Morgan Stanley Capital Grp., Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty., Wash.*, 554 U.S. 527 (2008), and refined in *NRG Power Mktg. v. Maine Pub. Utils. Comm'n*, 558 U.S. 165 (2010). The ordinary just and reasonable standard of review (rather than the "public interest" standard), as clarified

³ Commission Trial Staff Comments at 10-11.

⁴ *N.Y. Indep. Sys. Operator, Inc.*, 160 FERC ¶ 63,021, at P 2 (2017).

⁵ AC Transmission Projects are comprised of (1) Segment A, which includes the Edic/Marcy to New Scotland segment and the Princetown to Rotterdam segment, and (2) Segment B, which includes the Knickerbocker to Pleasant Valley segment. Settlement at § 2.1.

⁶ Segment B Additions are lower voltage projects required to be built as part of the development of Segment B.

⁷ Future AC Investments are comprised of necessary capital repairs, like-kind replacements and additional investments to the facilities comprising the AC Transmission Projects. *Id.* § 2.3.

⁸ Future Projects are NY Transco's new transmission projects that are selected or approved by NYISO for inclusion in its transmission plan and are under the operational control of NYISO or otherwise subject to the Commission's jurisdiction. *Id.*

in *Morgan Stanley Capital Grp., Inc. v. Pub. Util. Dist. No. 1 of Snohomish Cnty., Wash.*, 554 U.S. 527 (2008), applies to any changes to this Settlement sought by the Commission acting *sua sponte* or at the request of a non-Settling Party or a non-party to this proceeding.⁹

4. The Settlement resolves all remaining issues in dispute in these proceedings, including requests for rehearing in Docket No. ER15-572-002 with respect to NY Transco's proposed AC Transmission Projects.¹⁰

5. The Settlement appears to be fair and reasonable and in the public interest, and is hereby approved. The Commission's approval of the Settlement does not constitute approval of, or precedent regarding, any principal or issue in these proceedings.

6. NY Transco also requests waiver of Rule 602(c)(2)¹¹ of the Commission's Rules of Practice and Procedure.¹² According to NY Transco, the Settlement terms apply only in the event that it is selected by NYISO to construct certain aspects of the AC Transmission Projects. Specifically, within 30 days of being selected as the developer for certain portions, or all, of the AC Transmission Projects, NY Transco will submit a compliance filing requesting revisions to NYISO's Open Access Transmission Tariff to implement the terms of the Settlement.¹³ Accordingly, we grant NY Transco's waiver request and direct it to file revised tariff records in eTariff format,¹⁴ within 30 days of being selected for the relevant portions of the AC Transmission Projects, to reflect the Commission's action in this order.

⁹ Settlement at § 6.1.

¹⁰ *N.Y. Indep. Sys. Operator, Inc.*, 154 FERC ¶ 61,196 (2016) (approving an Offer of Partial Settlement resolving issues regarding the Transmission Owner Transmission Solution Projects in these proceedings).

¹¹ 18 C.F.R. § 385.602(c)(2) (2017) ("If an offer of settlement pertains to a tariff or rate filing, the offer must include any proposed change in a form suitable for inclusion in the filed rate schedules or tariffs, and a number of copies sufficient to satisfy the requirements applicable to tariff or rate filings of the type at issue in the proceeding.").

¹² NT Transco Transmittal at 2.

¹³ Settlement at § 3.10.

¹⁴ *Electronic Tariff Filings*, Order No. 714, FERC Stats. & Regs. ¶ 31,276 (2008).

7. This letter terminates Docket Nos. ER15-572-000, ER15-572-002, and ER15-572-006.

By direction of the Commission.

Kimberly D. Bose,
Secretary.